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To:	Examiner Poinvil	**From:**	Joseph R. Keating
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Phone:	703-305-9779	**Pages:**	43
Re:	09/221,656 38413.7	**CC:**	

•Comments:

Examiner Poinvil:

Please find attached the following documents for the above-identified application:

1. Appeal Brief;
2. Petition for four month Extension of Time;
3. Credit card form payment in the amount of $1,590.00 for Petition for four month extension of time;
4. Credit card form payment in the amount of $500.00 for fee for filing Appeal Brief.

Respectfully submitted,

Joseph R. Keating
for
KEATING & BENNETT, LLP
(Reg. No. 37,368)

PATENT
38413.7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tsukasa YAMAMOTO et al. Serial No.: 09/221,656 Filed: December 23, 1998 Title: A FLEXIBLE PRODUCTION AND MATERIAL RESOURCE PLANNING SYSTEM USING SALES INFORMATION DIRECTLY ACQUIRED FROM POS TERMINALS	Art Unit: 3628 Examiner: F. Poinvil

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal is from the outstanding Office Action, dated April 13, 2004, in connection with the above identified application.

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REAL PARTY IN INTEREST:

The real party of interest is the assignee Kanebo, Ltd., 20-20, Kaigan 3-chome, Minato-ku, Tokyo 108-8080, Japan.

RELATED APPEALS AND INTERFERENCES:

Applicants, assignee, and the undersigned attorney of record are not aware of any other appeals or interference involving this application.

STATUS OF CLAIMS:

Claims 1-7 have been cancelled.

Claims 8-34, 40-53, 55, and 59-73 stand finally rejected and are the subject of this appeal.

Claims 35-39, 54, and 56-58 have been indicated as allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

STATUS OF AMENDMENTS:

Applicants have not submitted any amendment after the issuance of the outstanding Office Action, dated April 13, 2004.

SUMMARY OF CLAIMED SUBJECT MATTER:

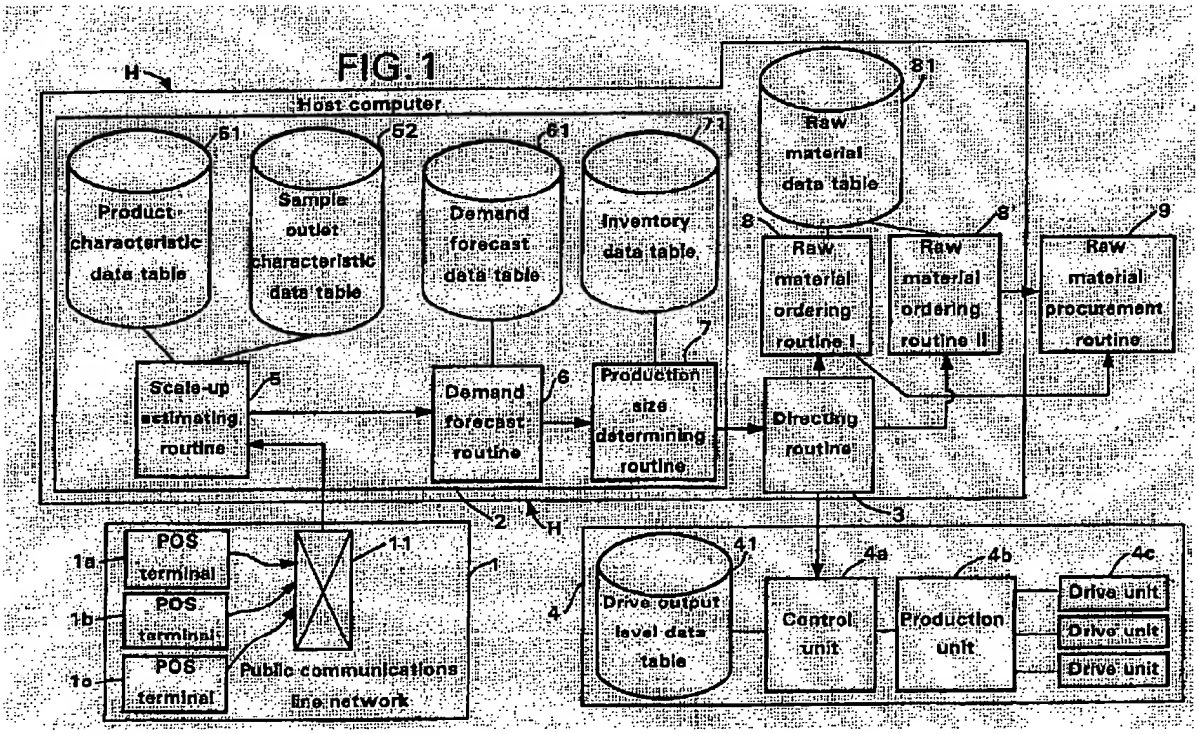
Claim 22

Applicants respectfully submit that claim 22 is the broadest claim. Thus, claim 22 will be discussed first. Claim 22 is directed to a production system that includes a point of sales subsystem and a flexible manufacturing subsystem. The invention defined in claim 22 is most easily understood by examining **Fig. 1** (reproduced below) and the bottom of page 19 to the middle of page 21 of the originally filed specification.

The point of sales subsystem is generally depicted in **Fig. 1** as reference symbol **1**. The plurality of point of sales terminals is generally depicted in **Fig.** 1 as reference symbols **1a-1c**.

The flexible manufacturing subsystem is generally depicted in **Fig. 1** as reference symbols **H** and **4**. The main controller is generally depicted in **Fig. 1** as reference symbol **2**. The manufacturing controller is generally depicted in **Fig.** 1 as reference symbol **4a**.

FIG. 1



Claim 8

The production system of claim 8 is generally depicted in **Fig. 1**.

The plurality of point of sales terminals is generally depicted in **Fig. 1** as reference symbols **1a-1c**.

The main control unit is generally depicted in **Fig. 1** as reference symbol **H**. The main control unit, the input device, the main production controller and the output device are generally depicted in **Fig. 1** as reference symbol **2**. More specifically, the input device is schematically depicted by the arrow connecting the public communication line network **11** and the scale-up estimating routine **5** shown in **Fig. 1**; and the output device is schematically depicted by the arrow connecting the production size determining routine **7** and the directing routine **3** shown in **Fig. 1**. The production size determining unit is generally depicted in **Fig. 1** as reference symbol **7**.

The manufacturing unit is generally depicted in **Fig. 1** as reference symbol **4**.

The production unit is generally depicted in **Fig. 1** as reference symbol **4b**.

Claim 28

The method of manufacturing of claim 28 is generally depicted in **Fig. 1**.

The step of collecting sales information is generally performed by information collection means **1** shown in **Fig. 1**.

The step of transmitting the sales information to a production size determining unit is generally depicted by the arrow connecting the public communication line network **11** and the scale-up estimating routine **5**, the arrow connecting the scale-up estimating routine **5** and the demand forecast routine **6**, and the arrow connecting the demand forecast routine **6** and the production size determining routine **7** in **Fig. 1**.

The step of executing a computer program at the production size determining unit is discussed in starting the paragraph bridging pages 26 and 27 and ending in the second full paragraph on page 28 and is illustrated in **Fig. 9**.

The step of transmitting the output data to a flexible manufacturing controller is depicted by the arrow connecting the production size determining routine **7** and the

directing routine **3** and the arrow connecting the directing routine **3** and the control unit **4a** in **Fig. 1**.

The step of manufacturing the production quantity is generally performed by the production unit **4b** in **Fig. 1**.

Claim 33

The method of supplying of claim 33 manufactured goods is generally depicted in **Fig. 1**.

The step of receiving data is generally depicted by the public communication line network **11** and the scale-up estimating routine **5** in **Fig. 1**.

The step of estimating a total number of units is generally performed by the scale-up estimating routine **5** in **Fig. 1**.

The step of predicting future demand is generally performed by the demand forecast routine **6** in **Fig. 1**.

The step of determining a production quantity is generally performed by the production size determining routine **7** in **Fig. 1**.

The step of determining required quantities of raw materials is generally performed by the raw material ordering routine I of element **8** and the raw material ordering routine II of element **8'** in **Fig. 1**.

The step of transmitting data to a raw material controller is generally depicted by the arrow connecting the raw material ordering routine I of element **8** and the raw material procurement routine **9** and the arrow connecting the raw material ordering routine II of element **8'** and the raw material procurement routine **9** in **Fig. 1**.

The step of transmitting the production quantity to a flexible manufacturing controller is generally depicted by the arrow connecting the production size determining routine **7** and the directing routine **3** and the arrow connecting the directing routine **3** and the control unit **4a** in **Fig. 1**.

Claim 52

The apparatus for controlling production of manufactured goods of claim 52 is generally depicted in **Fig. 1**.

The processor and the memory are generally depicted by reference symbol **H** in **Fig. 1**. More specifically, the memory is generally depicted by reference symbols **51**, **52**, **61**, **71**, and **81** in **Fig. 1**.

The step of receiving data is generally depicted by the public communication line network **11** and the scale-up estimating routine **5** in **Fig. 1**.

The step of estimating a total number of units is generally performed by the scale-up estimating routine **5** in **Fig. 1**.

The step of predicting future demand is generally performed by the demand forecast routine **6** in **Fig. 1**.

The step of determining a production quantity is generally performed by the production size determining routine **7** in **Fig. 1**.

The step of determining required quantities of raw materials is generally performed by the raw material ordering routine I of element **8** and the raw material ordering routine II of element **8'** in **Fig. 1**.

The step of transmitting data to a raw material controller is generally depicted by the arrow connecting the raw material ordering routine I of element **8** and the raw material procurement routine **9** and the arrow connecting the raw material ordering routine II of element **8'** and the raw material procurement routine **9** in **Fig. 1**.

The step of transmitting the production quantity to a flexible manufacturing controller is generally depicted by the arrow connecting the production size determining routine **7** and the directing routine **3** and the arrow connecting the directing routine **3** and the control unit **4a** in **Fig. 1**.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

The Examiner's rejection of claims 8-34, 40-53, 55, and 59-73 under 35 U.S.C. § 103(a) as being unpatentable over Jim Brown ("Software Links POS with Multiple Nets"), Rembert (U.S. 5,101,3520), and Beasley et al. (U.S. 4,827,423) is to be reviewed.

ARGUMENT:

Claims 8-34, 40-53, 55, and 59-73 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown, Rembert, and Beasley et al.

In the outstanding Office Action, claims 8-34, 40-53, 55, and 59-73 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown, Rembert, and Beasley et al. Applicants respectfully submit that the Board should select claim 22 to decide the appeal because claim 22 is the broadest claim. Thus, Applicants direct their arguments to claim 22. Applicants' arguments are equally applicable to Applicants' claims 8, 28, 33, and 52.

Claim 22 was improperly rejected

Claim 22 recites:

> A production system comprising:
> a point of sales subsystem including:
> a plurality of point of sales terminals, each including a central processor and an input device for receiving and storing sales information concerning sales of a plurality of products; and
> a flexible manufacturing subsystem including:
> a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem; and
> a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller.

Brown fails to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in claim 22

On page 3 of the outstanding Office Action, the Examiner alleged:

> Brown clearly teaches 'a plurality of point of sales terminals each including an electronic interface which obtains sales information concerning a plurality of goods.['] Thus, the host computer described by Brown receives the sales information form [*sic*] the point of sales terminals. Brown does not specific [*sic*] teach [the] details of an inventory management system. However, the Examiner asserts that the inventory

> management system of Brown would have included a production size determining unit for determining a production quantity to be produced in the future for the plurality of goods based on the sales information received from the plurality of point of sales terminals, and an output device for outputting data indicative of the production quantity determined by the production sized [*sic*] determining unit as such is the main function of an inventory management system.

Applicants agree with the Examiner that Brown teaches point of sales terminals. Applicants also agree with the Examiner that Brown fails to teach or suggest the specific details of an inventory management system, or any details of a manufacturing system or process.

However, the Examiner alleged that "the inventory management system of Brown would have included a production size determining unit for determining a production quantity to be produced in the future for the plurality of goods based on the sales information received from the plurality of point of sales terminals." The Examiner also alleged that inventory management system of Brown would have additionally included "an output device for outputting data indicative of the production quantity determined by the production sized [sic] determining unit." These allegations are completely conclusory in nature and have no support whatsoever in Brown. In fact, the Examiner has not referred to any specific teaching or portion of Brown to support these allegations.

In addition, the system of Brown is strictly a retail system that merely transmits POS data to an inventory management application running on a host system, as recognized by the Examiner. Brown does not disclose any details of the inventory management application.

Further, the Examiner concluded that the features of the inventory management system not specifically taught by Brown would be included in the system of Brown because "such is the main function of an inventory management system." This statement is also not supported by any reference to Brown or another prior art reference.

Applicants respectfully disagree with the Examiner that the remaining features of Applicants' claim 22 can be reduced to the mere idea of being necessary functions of "an inventory management system" or that an inventory management system would necessarily include the features not taught by Brown. More specifically, the remaining features of claim 22 are directed to "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller." The online American Heritage Dictionary of the English Language defines inventory as "a detailed, itemized list, report, or record of things in one's possession, especially a periodic survey of all goods and materials in stock." The online American Heritage Dictionary of the English Language defines manufacture as "to make or process (a raw material) into a finished product, especially by means of a large-scale industrial operation." It is quite clear that the Examiner has confused the concepts of inventory and manufacturing.

Thus, Applicants respectfully submit that Brown fails to teach or suggest not only the specific details of an inventory management system, but also any manufacturing features or method steps. Further, Applicants respectfully submit that Brown certainly fails to teach or suggest "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in Applicants' claim 22.

Applicants also respectfully disagree with the Examiner that the alleged inventory management system of Brown would include "a production size determining unit" or "an output device for outputting data indicative of the production quantity determined by the production size determining unit."

Please note, the terms "a production size determining unit" and "an output device" are recited, for example, in Applicants' claim 8 and are not recited in Applicants' claim 22. Applicants have assumed the Examiner is also referring to the similar features of "a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem" and "a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling

manufacture of the production quantity of the plurality of products determined by the main controller" recited in Applicants' claim 22.

Prior art rejections must be based on evidence. Graham v. John Deere Co., 383 U.S. 117 (1966). However, the Examiner failed to provide any evidence that the alleged inventory management system of Brown would include the features of "a production size determining unit" and "an output device" as recited, for example, in Applicants' claim 8 or the feature of "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in claim 22.

The Examiner is hereby requested to provide evidence in support of his position that it would have been well known at the time of Applicants' invention that the alleged inventory management system of Brown inherently includes either the features of "a production size determining unit" and "an output device" as recited, for example, in Applicants' claim 8 or the features of "a main controller" and "a manufacturing controller" as recited in Applicants' claim 22. If the rejection is based on facts within the personal knowledge of the Examiner, Applicants request that the Examiner provide an affidavit under 37 C.F.R. § 1.104(d)(2) to support, as specifically as possible, his rejection.

Thus, Applicants respectfully submit that Brown fails to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem" and "a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller" as recited in Applicants' claim 22.

Rembert fails to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in claim 22

On page 3 of the outstanding Office Action, the Examiner alleged,

"Rembert teaches such an inventory management system [as used in Brown]. See column 3, lines 1-39 of Rembert. Rembert also states that the production information includes data for sales orders, inventory items, purchase orders, estimates and work orders. Note column 129, lines 38-49 of Rembert."

First, Applicants respectfully submit that Rembert does not teach or suggest an inventory management system that could be used in the retail system of Brown. Lines 36-38 of column 2 of Rembert state, "The present invention is directed to an integrated MRP system for distributors, manufacturers and job shops." Lines 44-47 of column 2 of Rembert state, "In particular, the MRP system of the present invention is specifically directed to an [*sic*] user which manufactures and sells products that have a wide variety of options." That is, Brown is directed to point of sales terminals for retailers who sell directly to consumers, and Rembert is directed to a material requirements planning system for manufacturers who sell their products. As will be described in more detail below, retail systems and manufacturing systems were always maintained independent and separate from each other in the prior art and were not to be combined.

Thus, Rembert is not directed to an inventory management system that could be used with the point of sales terminals and retail system disclosed in Brown. Further, the Examiner has completely failed to explain why one of ordinary skill in the art would expect that the materials requirements planning system of a manufacturing system of Rembert would work with the point of sales terminals of a retail system in Brown.

Second, Rembert fails to teach or suggest the material requirements planning system uses point of sales information concerning sales of a plurality of products. As the Examiner pointed out, Rembert does teach that the material requirements planning system uses sales orders, inventory items, purchase orders, estimates and work orders. However, sales orders, inventory items, purchase orders, estimates and work orders are NOT data from point of sales terminals and are quite different from point of sales data concerning exact sales of a plurality of products collected a plurality of point of sales terminals. Anyone who only receives sales orders, inventory items, purchase orders, estimates and work orders for a plurality of goods will not, and could not, have any idea about the point of sales information concerning individual sales of a plurality of

products collected at a plurality of point of sales terminals because sales information from the point of sale is not conveyed in sales orders, inventory items, purchase orders, estimates and work orders.

Thus, Applicants respectfully submit that no portion of the material requirements planning system of Rembert teaches or suggests the feature of "a flexible manufacturing subsystem" including "a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem" and "a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller" as recited in Applicants' claim 22.

The Examiner has failed to provide proper motivation for combining Rembert and Brown

On page 3 of the outstanding Office Action, the Examiner alleged, "Thus, It would have been obvious to one of ordinary skill in the art to incorporate the inventory management system of Rembert into the system of Brown in order to detail out [the] inventory data and requirements of a particular product."

As discussed above, Brown is directed to point of sales terminals for retailers who sell directly to consumers, and Rembert is directed to a material requirements planning system for manufacturers who sell their products. As is reflected in the prior art references and the evidence of non-obviousness submitted by Applicants (discussed in more detail below), prior to Applicants' claimed invention, retail systems and manufacturing systems were not to be combined. Those of skill in the retail art did not trust those of skill in the manufacturing art to allow those of skill in the manufacturing art to influence or control the retail systems, and vice versa.

Given these two completely different areas of art and technical expertise, and the lack of trust and cooperation between these two technical areas, there was no

motivation or even hint of the desirability of combing retail and manufacturing systems together.

Thus, Applicants respectfully submit that one of ordinary skill in the art would not use the manufacturing material requirements planning system of Rembert with the retail point of sales terminals of Brown.

Further, Applicants respectfully submit that there is no motivation for combining Brown and Rembert because they are directed to two divergent fields, retail and manufacturing, respectively. Instead of basing the conclusion of obviousness on actual teachings or suggestions of the prior art and the knowledge of one of ordinary skill in the art at the time the invention was made, the Examiner has improperly used Applicants' own invention as a guide. The Federal Circuit has held that an examiner cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1780, 1783 (Fed. Cir. 1988) and MPEP § 2141.

Not only does the Examiner fail to recognize these two divergent fields of endeavor, he has completely failed to identify what the relevant art is and has also failed to define the characteristics and knowledge of the person of ordinary skill in that art. Further, Applicants respectfully request that the Examiner identify the level of ordinary skill and the relevant art. See Graham v. John Deere Co., 383 U.S. 117 (1966) and MPEP §§ 2141, "35 U.S.C. 103; the Graham Factual Inquiries," and 2141.03, "Level of Ordinary Skill in the Art."

Beasley et al. fail to teach or suggest the feature "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in claim 22

First, the Examiner admitted on pages 3 and 4 of the outstanding Office Action that the combination of Brown and Rembert fails to teach or suggest the feature of "a manufacturing unit for manufacturing the plurality of goods based on sales information which is collected at the plurality of point of sales terminals and transmitted from the plurality of point of sales terminal[s] to the main production controller."

of a flexible manufacturing subsystem including "a main controller" and "a manufacturing controller" recited in Applicants' claim 22.

Second, on page 4 of the outstanding Office Action, the Examiner alleged:

> Beasley et al. disclose a computer integrated manufacturing system for scheduling data relating to product production by a machine. See the abstract of Beasely et al. The system comprises a manufacturing unit that determines the production unit for manufacturing the production quantity of the plurality of goods in response to receiving output data indicative of the production quantity. See column 8, line 20 to column 12, line 41 of Beasely et al.

Applicants admit that Beasley et al. teach a computer integrated manufacturing system. However, there is no indication in either the portions of Beasley et al. referred to by the Examiner or in any other portion of Beasley et al. that the production quantity is based on actual independent sales information received from a point of sales subsystem as recited in Applicants' claim 22.

Because Beasley et al. fails to teach or suggest a production quantity based on sales information received from a point of sales subsystem, Applicants respectfully submit that Beasley et al. certainly fails to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem" and "a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller" as recited in Applicants' claim 22.

The Examiner has failed to provide proper motivation for combining Beasley et al. with Brown and Rembert

First, on page 4 of the outstanding Office Action, the Examiner alleged, "However, it is noted as products are being sold and the inventory is being depleted, more products would be needed as determined by the inventory management system.

Thus producing the needed products would have been obvious to one of ordinary skill in the art for replenishing and restocking purposes."

Applicants admit that it would have been well known that, when inventory is depleted, inventory management systems determine that more products are needed and admit that it would have been obvious to restock or replenish the depleted inventory. However, Applicants do not understand how these allegations relate to the combination of Beasley with the proposed combined system of Brown and Rembert, or relate to either the "manufacturing unit" recited in Applicants' claim 8 or to the "flexible manufacturing subsystem" recited in Applicants' claim 22.

Retail users of the point of sales terminals in Brown typically replenish inventory by transmitting sales orders for ordering more inventory from their distributors. Manufacturers that use the material requirements planning system of Rembert typically replenish their depleted inventory by ordering more raw materials from their suppliers. That is, the need to replenish inventory of finished goods at the retail system and the need to replenish inventory of raw materials at the manufacturing system would not motivate one of ordinary skill in the art to combine either the systems of Brown and Rembert with the plant management system of Beasley et al.

Second, on page 4 of the outstanding Office Action, the Examiner alleged, "It would have been obvious to the skilled artisan to incorporate the teaching of Beasley et al[.] into the combination of Brown and Rembert in order to manufacture a received quantity of products for accurate and timely producing and delivering of products to the plurality of point of sales."

Applicants admit that persons of ordinary skill in the art of manufacturing would be motivated by the goals of accurately and timely producing products and of accurately and timely delivering those products. However, the Examiner has failed to explain how the plant management system of Beasley et al. would accomplish either of these goals in either of the retail system including the point of sales terminals of Brown or the material requirements planning system of Rembert.

Further, the Examiner's allegation of obviousness ignores the divergent fields of endeavor (retail and manufacturing) and the complete lack of convergence and cooperation between these two totally different technical fields.

The combination of Brown, Rembert, and Beasley et al. fails to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller" and "a manufacturing controller" as recited in claim 22

Even assuming *arguendo* that Brown, Rembert, and Beasley et al. could be combined, the combination fails to teach or suggest combining retail and manufacturing features. More specifically, there is absolutely no indication or suggestion anywhere in the combined teachings of Brown, Rembert, and Beasley et al. that the manufacturing feature of a production quantity should be based on the retail feature of actual independent sales information received from a point of sales subsystem.

Thus, Applicants respectfully submit that the combination of Brown, Rembert, and Beasley et al. fail to teach or suggest the feature of "a flexible manufacturing subsystem" including "a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem" and "a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller" as recited in Applicants' claim 22. Further, Brown, Rembert, and Beasley et al. fail to teach or suggest the above feature should be combined with a point of sales subsystem as recited in Applicants' claim 22.

The Examiner's statements of motivation for combining Rembert with Brown, and for combining Beasley with the combined Brown-Rembert system are nothing more than conclusory statements of generalized advantages and convenient assumptions about skilled artisans. Such statements and assumptions are inadequate to support a finding of motivation, which is a factual question that cannot be resolved on "subjective belief and unknown authority." In re Lee, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

Under such circumstances, with respect to core factual findings, the Examiner "must point to some concrete evidence in the record in support" of them, rather than relying upon his own assessment of what is "well recognized" or what a skilled artisan would be "well aware." In re Zuko, 258 F.3d 1379, 1385-86, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

The Examiner Failed to Consider Evidence of Non-Obviousness

Where Applicants traverse any rejection, the Examiner should, if the rejection is repeated, take note of the applicant's argument and answer the substance of it. MPEP § 707.07(f), "Answer All Material Traversed."

Applicants have provided four references that provide evidence of non-obviousness:

1) "Kanebo Ltd," Strategic Operations: Competing Through Capabilities, published by the Harvard Business School;

2) "Direct Linkage With Increased Information Systemization," published on August 18, 1990 in the Nikkei Sangyo Shimbun;

3) "Kanebo Directly Links POS with FMS: A System for Cosmetics With Six Times the Productivity," published on July 31, 1990 in Nikkei Sangyo Shimbun; and

4) "Additional Production of Seasonal Merchandise Become Flexible," published on August 3, 2002 in Nikkei Keizai Shimbun.

The Examiner has failed to consider this evidence of non-obviousness and has failed to specifically respond to the content of this objective evidence of non-obviousness.

Thus, Applicants respectfully request that the Examiner consider this evidence of non-obviousness and respond thereto.

Claims 1-18 are allowable over Jim Brown, Rembert, and Beasley et al.

Accordingly, Applicants respectfully submit that the rejection of claims 8-34, 40-53, 55, and 59-73 under 35 U.S.C. § 103(a) as being unpatentable over Jim Brown, Rembert, and Beasley et al. should be reversed and that claims 8-73 are clearly allowable.

Respectfully submitted,

Date: January 12, 2005

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